IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17940 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JINDAL TEXO FAB LTD

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 17940 of 2003
MR AMAR P DAVE for Petitioner No. 1-2
MR DN PATEL for Respondent No. 1
..... for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 23/12/2003

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE A.R.DAVE)

1. RULE. Service of rule is waived by learned Senior Central Government Standing Counsel Shri D.N. Patel for the respondents. At the request of the learned advocates, the petition is finally heard today.

2. In this petition, the petitioners have challenged the validity of an order dated 29th May, 2003, whereby the appeal had been dismissed as the amount of pre-deposit was not paid by the petitioners.

3. Learned advocate Shri Amar Dave appearing for the petitioners has submitted, on instructions received, that the petitioners would pay an amount of Rs. 3 lakhs by way of pre-deposit. It has been submitted by the learned advocate that because of financial difficulties , it was not possible for the petitioners to manage for the amount which was to be deposited and, therefore, the amount of pre-deposit could not be paid as directed by the authorities.

4. It has been submitted by the learned advocate that the amount of pre-deposit shall be paid within a period of three weeks from today. Upon payment of the said amount, compliance report shall be submitted to respondent no.2 and, thereafter, respondent no.2 shall restore the appeal to file and hear the same on merits.

5. Heard learned Senior Central Government Standing Counsel Shri D.N. Patel for the respondents. It has been submitted by him that as the petitioners had not deposited the amount of pre-deposit, no sympathy should be shown to them and he has tried to justify the impugned order.

6. We have heard the learned advocates. Looking to the fact that the petitioners are ready and willing to pay the amount of pre-deposit, without going into the merits of the case, we direct respondent no.2 to restore the appeal to file upon getting the compliance report and hear the appeal on merits as soon as possible and preferably within a period of three months from the date of receipt of the compliance report by him. The impugned order dated 29th May, 2003 is quashed and set aside.

7. In view of the above order, the petition stands disposed of as allowed. Rule is made absolute to the above extent.

(A.R. DAVE, J.)

(K.A. PUJ, J.)

siji